

U.S. BOARD OF DENTISTRY
OF 16-19-96

CERTIFIED TRUE COPY

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

In the Matter of the Suspension
or Revocation of the License of

JOSEPH HANNAH, D.M.D.
LICENSE NO. D1 14683

To Practice Dentistry in the
State of New Jersey

Administrative Action

CONSENT ORDER

This matter having been opened to the State Board of Dentistry ("Board") on the Attorney General's complaint alleging that Joseph Hannah, D.M.D. ("respondent") during the course of purported diagnostic examinations intentionally touched the breasts of nine (9) female patients without dental or medical cause, and the Board having on June 12, 1996, ordered respondent to show cause why his license should not be temporarily suspended, and it appearing that respondent desires to terminate the within proceeding without further hearing which is expressly hereby waived and this Order being entered without respondent admitting to any of the allegations in the complaint or to any violation of any statutory or regulatory provision administered by the Board, or to any violation of any criminal statute or civil wrongdoing and without the Board making any finding of fact or conclusion of law, and it further appearing to the Board that the entry of the within Order is adequately protective of the public interest,

IT IS ON THIS 19TH DAY OF JUNE, 1996,

HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice dentistry shall be suspended for a period of five (5) years, the first nine (9) months of which shall be an active suspension and the remainder of which shall be a probationary period. Active suspension shall commence on June 19, 1996. Respondent shall, not later than June 24, 1996, tender to the Board's Executive Director his initial license certificate and his current biennial registration certificate. During the period of active suspension respondent shall cease and desist from the practice of dentistry; shall conform to the limitations annexed hereto; and shall not be present in any establishment where the practice of dentistry occurs unless either such presence is required pursuant to a bona fide dentist/respondent relationship wherein respondent is the patient being treated by another dentist, or such presence is expressly authorized in writing by the Board prior to the anticipated presence therein. In the event that respondent during the period of active suspension either practices dentistry in another state or jurisdiction or is incarcerated for the conduct alleged in the complaint filed herein, the period of such practice or incarceration shall stay the active suspension imposed herein until cessation of such practice or release from incarceration. This Order shall be a final disposition of the complaint filed with the Board in this matter and shall not be reopened regardless of the result of any criminal prosecution involving the nine (9) patients named in said complaint.

2. Within forty-five (45) days of the entry of this Order, respondent shall submit to a mental health evaluation to be conducted by a mental health practitioner designated or approved by the Board. Respondent shall cause said provider to issue a diagnostic and evaluative report to the Board which evaluates respondent's capacity to render dental services to the public. For the preparation of said report, the Attorney General and respondent shall have leave to submit to the mental health practitioner the patient statements of the nine (9) complaining patients identified in the complaint, their patient records, and such other documentation or information as may be deemed appropriate for evaluative purposes. Said report shall indicate whether a need for any mental health treatment such as counseling or therapy is necessary and shall set forth the prognosis and recommended treatment. During the period of active suspension, respondent shall submit to and successfully complete such treatment as may be deemed necessary by the mental health practitioner and as may be directed by the Board upon its review of said report. The cost of any such evaluation and treatment shall be borne solely by the respondent. *

3. Prior to reinstatement of respondent's license to practice dentistry, he shall appear before the Board and demonstrate his capacity to safely practice dentistry and his compliance with this Order. Upon reinstatement, respondent shall comply with all statutory and regulatory provisions relating to the practice of dentistry as well as the general laws of the State of

* The mental health evaluation and course of treatment record shall be disclosed only to the Board and to counsel for the parties in this matter. The Board and the parties shall not disclose such materials to any other party, including the prosecutor in this matter, absent a court order which shall not be opposed by the Board.

New Jersey. Should respondent fail to comply with these provisions, the Board may on five (5) days' notice and after opportunity to be heard, activate license suspension for such part or all of the remaining probationary period.

4. Upon reinstatement to licensure, respondent shall at his own expense secure the services of a monitor. Said monitor shall be a registered dental assistant or registered dental hygienist whose registration is issued by the Board. Said monitor shall be provided with a copy of this Order with receipt acknowledged in writing and filed with the Board. The monitor shall be approved by the Board and shall be present during the entire period in which respondent renders diagnostic, treatment or other related dental service to any female patient. Said presence shall at all times include direct line of sight observation of the patient. At the conclusion of each monitored patient's visit, the monitor shall sign the patient chart with the following notation:

Observation made: _____
(Monitor initials and date).

In the event that the monitor observes any inappropriate touching, other inappropriate behavior, or any other conduct prohibited by the within Order, said monitor shall immediately notify the Board's Executive Director, Agnes Clarke, by telephone at (201) 504-6422 and shall thereafter confirm such notice in writing. Respondent shall not, under any circumstances, provide dental services of any kind without the presence of a monitor as required herein. The monitoring requirement established herein shall continue at a

minimum for the entire period of probation. Respondent shall have leave to request modification or termination of the monitoring provision no sooner than the end of the five (5) year probationary period.

5. Respondent shall perform two hundred fifty (250) hours of dental community service at a facility to be approved by the Board and completed within one (1) year subsequent to reinstatement of active licensure. In the event respondent does not submit to the Board within ninety (90) days of the entry date of this Order the name of a facility which has agreed to permit respondent to perform dental community service in accordance with the terms of this Order and which is approved by the Board, the Board shall designate the facility. Respondent shall comply with the dental protocol and procedures as required by the designated facility. The facility shall appoint an individual to supervise the community service to be provided by the respondent, and said individual shall be authorized to provide the Board with confirmation that the respondent has commenced the performance of dental services and continues to perform said service in accordance with the schedule to be established by the facility and the respondent. In the event the performance of the community service at the designated facility is discontinued for any reason whatsoever, the respondent shall donate the balance of required hours at an alternative facility designated by the Board.


6. Respondent shall cease and desist from performing any axillary or other examination of any lymph nodes or glands

other than in the face, neck and jaw. Respondent shall not intentionally place his hands in or about the patient's armpits, chest, or breast areas or any other area below the clavicle.

7. Random and unannounced inspections and audits of respondent's professional practice may be conducted by the Board's designee at the Board's discretion and at the expense of the respondent for the entire probationary period in order to assure compliance with all terms and conditions of the within Order. On demand made, respondent shall immediately make available any and all records necessary to conduct such inspection or audit as determined by the Board or its designees. The cost of each such inspection/audit shall be based on the standard hourly rate for the Board's investigators prevailing at the time of the time of the inspection/audit and shall be due and payable within thirty (30) days of the respondent's receipt of a statement of such costs from the Executive Director of the Board.

8. Respondent shall pay the costs incurred to date in connection with this matter pending before the Board. The amount of such costs shall be submitted to the respondent in a statement from the Executive Director of the Board. The payment of such costs shall be submitted by the respondent to the Board by certified check or money order made payable to the State of New Jersey and submitted to the Board within 90 days of the entry date of the Order. Respondent may elect to pay the costs in equal monthly installments over a one year period commencing with the

first installment in July 1996 by confirming such election with the Board's Executive Director in writing.



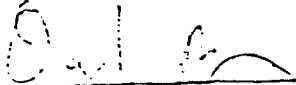
SAMUEL FURMAN, D.D.S.
PRESIDENT
STATE BOARD OF DENTISTRY

I have read and I understand the terms and conditions of the within Order. I consent to be bound by them, and I further hereby give my consent to the entry of this Order by the Board.

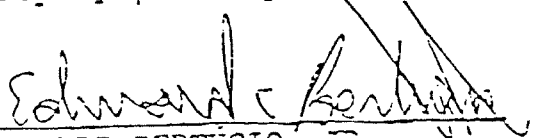


JOSEPH HANNAH, D.M.D.

Consented as to form and entry:



DOUGLAS J. HARPER
Deputy Attorney General



EDWARD BERTUCIO, JR.
(Counsel for Respondent)

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a

member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

(9) Report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

(10) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the Board in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.